

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	Civil Action No. 07-C-1142
	)	
v.	)	
	)	<b>CONSENT DECREE</b>
KINDRED NURSING CENTERS LIMITED	)	
PARTNERSHIP,	)	
	)	
Defendant.	)	
_____	)	

This action was instituted by the United States Equal Employment Opportunity Commission ("EEOC") on or about December 18, 2008, against Kindred Nursing Centers Limited Partnership ("KNCLP"), under Title VII of the Civil Rights Act of 1964 ("Title VII") and the Civil Rights Act of 1991. The EEOC alleges that in February 2006, KNCLP involuntarily reassigned Stella Loblely and Verenia Liggins, both of whom worked as Certified Nursing Assistants at KNCLP's Vallhaven Care Center in Neenah, Wisconsin ("Vallhaven"), from one section of the facility to other sections because of their race (Black/African-American), at the request of certain Caucasian resident patients of Vallhaven. The EEOC and KNCLP have agreed to this Consent Decree, which shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in this action, Civil Action No. 07-C-1142 (E.D. Wis.), to avoid further litigation and to resolve disputed claims. This Decree does not constitute an adjudication of, or a finding on, the merits of the case for or against either party.

This Consent Decree shall be final and binding on the EEOC and on KNCLP, on KNCLP's directors, officers, agents, employees, successors, and assigns, and on all persons in active concert or participation with KNCLP.

## CONSENT DECREE

Upon the consent of the parties to this action, IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

### Non-Discrimination

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. KNCLP will not engage in any employment practice which constitutes unlawful race discrimination or retaliation under Title VII. KNCLP will not assign or reassign employees based on their race.
3. KNCLP shall comply with all provisions of Title VII. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit KNCLP's obligations under Title VII or the EEOC's authority to process or litigate any charge of discrimination which may be filed against KNCLP in the future, or KNCLP's ability to defend against any such claims.

### Monetary Relief

4. KNCLP agrees to pay a total of \$35,000 to the two aggrieved individuals identified in this action (Stella Loblely and Verenia Liggins) in full and final settlement of the claims against KNCLP which were raised in the EEOC's Complaint. The monetary relief will be paid in the following manner:

(a) The payments shall be treated as non-wage compensation (to be reported on a Form 1099) and not as taxable wages (subject to withholding on a Form W-2).

(b) Within five business days of the entry of this Consent Decree, KNCLP shall send a \$25,000 payment to Ms. Loblely in accordance with Paragraph 4(a) above. It shall send a \$10,000 payment to Ms. Liggins within five days of receiving her address from the EEOC. If she cannot be located by the EEOC within 60 days after the Court's

entry of this Consent Decree, KNCLP shall not be under any obligation to pay this amount to her or to anyone.

(c) KNCLP shall mail the checks to Ms. Lobley and Ms. Liggins by certified mail, return receipt requested, at addresses provided by the EEOC. KNCLP also will mail a photocopy of each check to Dennis R. McBride, Senior Trial Attorney, EEOC, 310 West Wisconsin Avenue - Suite 800, Milwaukee, WI 53203-2292, on the same day that it mails the checks to Ms. Lobley and Ms. Liggins.

#### Posting of Notice

5. Within 10 business days after the Court's entry of this Consent Decree, KNCLP shall post same-sized copies of the Notice attached as Exhibit A to this Decree on the bulletin board at KNCLP's Wisconsin facilities usually used for communicating human resources matters to employees. The notice shall remain posted for twelve (12) months at Vallhaven and six (6) months at all other KNCLP Wisconsin facilities from the date of entry of this Decree. Within 10 business days of the posting, KNCLP also shall send a letter to Dennis R. McBride, Senior Trial Attorney, EEOC, 310 West Wisconsin Avenue - Suite 800, Milwaukee, WI 53203-2292, enclosing a copy of the Notice, as signed by KNCLP, and stating the date and locations of its posting. KNCLP shall make good faith efforts to ensure that the posting is not altered, defaced or covered by any other material. If the posted copies become defaced, removed, marred or otherwise illegible, as soon as practicable KNCLP shall post a readable copy in the same manner as previously specified.

#### Training

6. KNCLP shall provide the following training to its executive directors, department heads and human resource director for all of its Wisconsin facilities:

(a) KNCLP shall provide training regarding an employee's rights under Title VII, and the employer's obligations under Title VII, with an emphasis on what constitutes differential treatment of minority employees in the workplace, how to keep KNCLP free of such forms of discrimination, and what constitutes unlawful retaliation.

(b) The training will be for a minimum of four (4) hours and will include a live presentation by an executive, manager, or employment counsel emphasizing KNCLP's commitment to prevent discrimination and harassment.

(c) KNCLP shall complete the above training no later than March 31, 2009.

7. No later than 30 days prior to the first day of the proposed training, KNCLP shall submit to the EEOC the name(s), address(es), telephone number(s), and curriculum vitae/resume(s) of its trainer(s), together with the date(s) and location(s) of the proposed training. KNCLP shall provide the EEOC with copies of all written materials provided to the participants of the training sessions.

8. Within five business days after all required training has occurred, KNCLP shall send a letter to Dennis R. McBride, Senior Trial Attorney, EEOC, 310 West Wisconsin Avenue - Suite 800, Milwaukee, WI 53203-2292, certifying to the EEOC that the training has taken place and that the required personnel have attended.

#### Dispute Resolution

9. If either party to this Consent Decree believes that the other party has failed to comply with any provision of the Decree, the complaining party shall notify the other party of the alleged non-compliance within 10 business days of the alleged non-compliance and shall afford the alleged non-compliant party 10 business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-compliant party has complied. If the alleged

non-compliant party has not remedied the alleged non-compliance within 10 business days, the complaining party may apply to the Court for appropriate relief.

Miscellaneous Provisions

10. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.

11. The terms of this Decree are and shall be binding upon KNCLP's present and future representatives, agents, directors, officers, assigns, and successors, in their capacities as representatives, agents, directors, and officers of KNCLP and not in their individual capacities. This Paragraph shall not be construed as placing any limit on remedies available to the Court in the event that any individual is found to be in contempt for a violation of this Decree.

12. This Consent Decree shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 07-C-1142. This Decree resolves all claims arising out of the Charge of Discrimination filed by Lobley against Vallhaven, EEOC Charge No. 443-2006-00677C; ERD Case No. 200602298 (the "Charge"), and constitutes a complete resolution of all claims under Title VII or the 1991 Civil Rights Act that the EEOC made in this action.

13. During the eighteen (18) month period after this consent decree is approved KNCLP will report in writing to the EEOC's Milwaukee District Office any KNCLP Wisconsin employee's complaint of race discrimination reported to any executive director at its Wisconsin facilities. Any such report shall include the name, address, telephone number and job title of any employee who made such a complaint and a summary as to the nature of the complaint.

14. This Consent Decree shall be filed in the United States District Court for the Eastern District of Wisconsin and shall continue in effect for eighteen (18) months.

15. This Court shall retain jurisdiction over this action in order to enforce the terms of this Consent Decree.

16. Both parties request that this Court approve this Consent Decree and, pursuant to FRCP 41(a)(1), dismiss this case with prejudice, without costs to either party, and with the Court reserving jurisdiction only as necessary to enforce this Consent Decree.

SO ORDERED, ADJUDGED, AND DECREED this 9th day of October, 2008.

By the Court:

/s/ C. N. Clevert, Jr.

Charles Clevert, Jr.

United States District Judge

Agreed to in form and content:

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

By its attorneys:

Dated: September 22, 2008

s/ Dennis R. McBride

Jean P. Kamp, Associate Regional Attorney

Dennis R. McBride, Senior Trial Attorney

Equal Employment Opportunity Commission

Milwaukee Area Office

310 West Wisconsin Avenue - Suite 800

Milwaukee, WI 53203-2292

Kindred Nursing Centers Limited Partnership

By its attorneys:

Dated: October 7, 2008

s/ Courtney R. Heeren

Robert H. Duffy, Esq. (SBN 1010996)

Courtney M. Heeren, Esq. (SBN 1066153)

Quarles & Brady LLP

411 East Wisconsin Avenue - Suite 2040

Milwaukee, WI 53202-4461

Telephone: (414) 277-5647 Fax: (414) 271-3552

E-mail: [rd1@quarles.com](mailto:rd1@quarles.com) (Duffy)

E-mail: [cheeren@quarles.com](mailto:cheeren@quarles.com) (Heeren)

## **NOTICE TO ALL KNCLP WISCONSIN FACILITY EMPLOYEES**

This Notice is being posted pursuant to a Consent Decree entered by the U.S. District Court in *Equal Employment Opportunity Commission v. Kindred Nursing Centers Limited Partnership*, Civil Action No. 07-C-1142 (E.D. Wis.), resolving a lawsuit filed by the EEOC against Kindred Nursing Centers Limited Partnership ("KNCLP"). The Consent Decree confirms that it does not constitute an adjudication of, or a finding on the merits of the case for or against either party.

A federal law, Title VII of the Civil Rights Act of 1964, prohibits discrimination against employees and applicants for employment based upon race, color, sex, religion, or national origin. Title VII also forbids employers to retaliate against employees or applicants who engage in protected activities under Title VII, such as opposing discriminatory employment practices, filing a charge of discrimination with a government agency, or testifying or participating in an EEOC investigation. The EEOC is a federal agency which investigates charges of unlawful employment discrimination. The EEOC has authority to bring lawsuits in U.S. district courts to enforce Title VII.

To resolve the case, KNCLP and the EEOC have entered into a Consent Decree which is in effect for eighteen (18) months and which provides that: (1) KNCLP will pay a monetary amount to two former African-American employees to resolve their claims; (2) in compliance with federal law, KNCLP will not discriminate on the basis of race; (3) in compliance with federal law, KNCLP will not retaliate against any person because s/he opposed any practice made unlawful by Title VII, filed a discrimination charge, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and (4) KNCLP will train its executive directors, department heads and human resource director for its Wisconsin facilities regarding race discrimination and KNCLP's policy prohibiting race discrimination.

If you believe you have been discriminated against, you may call the EEOC at (414) 297-1110 or at (800) 669-4000. The EEOC does not charge fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE. This Notice must remain posted for \_\_\_\_\_ from the date below and must not be altered, defaced, or covered by any other material.

By: \_\_\_\_\_  
District Director of Operations  
Wisconsin District  
Kindred Nursing Centers Limited Partnership